

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**VS.**

## ELIAS YOUNES,

**Defendant.**

**CASE NO. 8:06CR355**

## TENTATIVE FINDINGS

The Court has received the Presentence Investigation Report (“PSR”) in this case. The parties have not objected to the PSR. See Order on Sentencing Schedule, ¶ 6. The government adopted the PSR. (Filing No. 14, 19.) The Defendant objects to the sentencing recommendation. (Filing Nos. 20, 21.) The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 2005 WL 50108 (U.S. Jan. 12, 2005), the sentencing guidelines are advisory.

The Defendant objects to the statement in the sentencing recommendation that probation is not authorized, citing 18 U.S.C. § 3561(c)(1). The statements regarding probation in the sentencing recommendation are accurate: 1) a sentence of probation between 1 and 5 years is authorized under § 3561(c)(1); and 2) the advisory sentencing guidelines provide that probation is not authorized pursuant to application note 2 to U.S.S.G. § 5B1.1 because the Defendant's sentencing guideline range is within Zone D. The Court advises the Defendant that while guideline sentences are generally imposed, the Court will carefully consider the Defendant's arguments raised in the context of considering the Defendant's motion for a downward departure or variance from the sentencing guideline range.

The Defendant also objects to the “justification section” of the sentencing recommendation. The Court is not at liberty to alter this information. However, the Court will carefully consider all relevant evidence in fashioning an appropriate sentence.

For the reasons discussed, the Defendant's objections to the sentencing recommendation are denied.

IT IS ORDERED:

1. The parties are notified that my tentative findings are that the PSR is correct in all respects;

2. The Defendant's objections to the sentencing recommendation (Filing No. 20) are denied;

3. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

4. Absent submission of the information required by paragraph 3 of this Order, my tentative findings may become final;

5. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing; and

6. If the parties require more than 30 minutes for the sentencing hearing, they shall immediately contact Edward Champion, tel. 661-7377, and reschedule the hearing.

DATED this 1<sup>st</sup> day of February, 2007.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge